

VIRGINIA:

BEFORE THE CIRCUIT COURT OF THE CITY OF RICHMOND

VIRGINIA STATE BAR EX REL  
FIFTH DISTRICT, SECTION II COMMITTEE

VSB Docket No. 20-052-116377

VSB Docket No. 20-052-117438

VSB Docket No. 20-052-117991

VSB Docket No. 20-052-117965

VSB Docket No. 20-052-117557

v.

Case No. 21-1794-3

RANDALL SOUSA.

FINAL JUDGMENT MEMORANDUM ORDER

THIS MATTER came to be heard on August 9-10, 2021 by a Three-Judge Circuit Court duly impaneled pursuant to Section 54.1-3935 of the Code of Virginia (1950) as amended, consisting of the Honorable Paul W. Cella, Chief Judge of the Eleventh Judicial Circuit; the Honorable W. Allan Sharrett, Judge of the Sixth Judicial Circuit; and the Honorable Cheryl V. Higgins, Judge of the Sixteenth Judicial Circuit and designated Chief Judge (“Chief Judge”) of the Three-Judge Circuit Court (collectively, “the Court”).

Senior Assistant Bar Counsel Elizabeth K. Shoenfeld represented the Virginia State Bar (“VSB”). Respondent Randall Sousa (“Respondent”), having received proper notice of the proceeding, appeared *pro se*.

The Chief Judge swore the court reporter. Each member of the Court verified that he or she had no personal or financial interest that might affect or reasonably be perceived to affect his or her ability to be impartial in this matter.

WHEREUPON a hearing was conducted upon the Rule to Show Cause issued against Respondent. The Rule directed Respondent to appear and to show cause why his license to practice law in the Commonwealth of Virginia should not be suspended, revoked, or otherwise sanctioned by reason of allegations of ethical misconduct set forth in the Certification issued by a Subcommittee of the Fifth District Committee, Section II, of the VSB.

Misconduct Phase

Pursuant to the Pre-Hearing Order, the Court admitted VSB Exhibits 1-8, 11, 13-29, 31-38, 40, 42-43, 45, 47-52, 54-55, 60, 2-28, 70-74, 76-77, 79-82, 84, 86, and 88-91 into evidence without objection.

Prior to the hearing, the Chief Judge ruled that the Court would first consider opening statements, evidence, and closing arguments from the parties regarding VSB Docket No. 20-052-116377. The Court would then deliberate regarding whether the bar had proven any of the Virginia Rules of Professional Conduct charged in VSB Docket No. 20-052-116377 by clear and convincing evidence. After completing the misconduct phase of VSB Docket No. 20-052-116377, the Court would then hear opening statements, evidence, and closing arguments from the parties regarding VSB Docket Nos. 20-052-117438, 20-052-117991, 20-052-117965, and 20-052-117557 as part of the same misconduct proceeding. The Court would then deliberate regarding whether the bar had proven any of the Virginia Rules of Professional Conduct charged in VSB Docket Nos. 20-052-117438, 20-052-117991, 20-052-117965, and 20-052-117557 by clear and convincing evidence. If the Court found any violations of Virginia Rules of Professional Conduct, it would then proceed to a single, sanctions proceeding. The hearing proceeded in this order.

VSB Docket No. 20-052-116377

Both parties made opening statements. The Court received the testimony of Randall Sousa and Erin Barr for the VSB, after which the VSB rested. Respondent did not make a motion to strike.

Respondent did not call any witnesses or introduce any exhibits.

Both parties made closing arguments.

Upon due deliberation and consideration of the exhibits, witness testimony, and argument for the parties, the Court made the following findings of fact by clear and convincing evidence:

1. Respondent was admitted to the Virginia State Bar in January 2017. On November 6, 2019, his license was suspended for failing to respond to a subpoena *duces tecum* in VSB Docket No. 20-052-116377. VSB Ex. 2. Respondent's license to practice law in Virginia remained suspended for noncompliance with the subpoena as of the date of the hearing.
2. Respondent represented Sara Chapilliquen in her divorce from her husband, Willberg Teddy Chapilliquen, pending in the Fairfax County Circuit Court. VSB Ex. 11, pp. 2-3.
3. Mr. Chapilliquen filed for divorce on July 24, 2018. VSB Ex. 11, pp. 2-3.
4. Respondent filed an answer and counterclaim for Ms. Chapilliquen on August 30, 2018. In the answer, Respondent did not demand spousal support, even though the parties had been married for 24 years, and Ms. Chapilliquen had never worked outside the home. Respondent never amended the counterclaim to include a request for spousal support. VSB Ex. 11, pp. 2-3.
5. On September 18, 2018, Erin Barr, counsel for Mr. Chapilliquen, offered a settlement in which Mr. Chapilliquen would pay Ms. Chapilliquen \$600/month for eight years, totaling \$57,600. Respondent never responded to this offer. VSB Ex. 11, p. 9.
6. On October 2, 2018, the court entered a scheduling order, which set the equitable distribution trial date for June 11-12, 2019. The scheduling order closed discovery 30 days before the trial, or by May 12, 2019. It also required the parties to exchange exhibit and witness lists at least 15 days before trial, or by May 28, 2019. VSB Ex. 11, p. 3.
7. On December 7, 2018, Barr served Mr. Chapilliquen's first interrogatories and requests for production to Ms. Chapilliquen on Respondent. VSB Ex. 13. On January 3, 2019, Barr sent Respondent a letter stating that she had not received Ms. Chapilliquen's discovery

answers, which were due on December 28, 2018. Barr also requested Respondent's availability for a hearing on a motion to compel. VSB Ex. 14.

8. On January 8, 2019, Respondent represented his client would comply with the pending discovery requests by January 14, 2019. VSB Ex. 15. Respondent did not provide responses as promised, however, and on January 22, 2019, Barr filed a motion to compel. VSB Ex. 16.
9. On February 8, 2019, the court entered an order requiring Ms. Chapilliquen to provide "full answers and responses by February 15, 2019." The court reserved the question of whether to award attorney's fees until the final hearing in the matter. VSB Ex. 17. Respondent still did not submit discovery responses for Ms. Chapilliquen by the court-ordered deadline. VSB Exs. 18, 22.
10. On February 25, 2019, Barr wrote to Respondent and stated that she would file a motion for sanctions if his client did not comply with the court's order. VSB Ex. 18.
11. On March 1, 2019, Barr filed a motion to compel and motion for sanctions. The motion stated that Ms. Chapilliquen still had not responded to Mr. Chapilliquen's discovery. Barr sought sanctions including attorney's fees and precluding Ms. Chapilliquen from introducing certain evidence. VSB Ex. 19.
12. On March 4, 2019, Respondent faxed Ms. Chapilliquen's responses to the requests for production to Barr. Respondent did not provide any answers to the interrogatories. These responses Respondent provided to the requests for production were incomplete. Some of the responses indicated that Ms. Chapilliquen would provide responsive information in the next 10 days. Some of the responses also contained objections, despite the court's order that Ms. Chapilliquen provide "full answers and responses." VSB Ex. 20.
13. On April 12, 2019, Barr filed a motion to overrule Respondent's objections and compel discovery, and for sanctions. VSB Ex. 21.
14. On April 26, 2019, the court entered another order requiring Ms. Chapilliquen to provide "full and complete discovery responses without further objection by no later than May 3, 2019." VSB Ex. 22. Respondent still did not submit supplemental responses on behalf of Ms. Chapilliquen by May 3, 2019. VSB Ex. 11, p. 3.
15. On May 10, 2019, Barr filed a motion to compel the appraisal of the marital home. Barr filed the motion because Respondent had not responded to her communications requesting that Ms. Chapilliquen make the marital home available to the appraiser. VSB Ex. 23.
16. Pursuant to the scheduling order, discovery closed on May 12, 2019.
17. On May 14, 2019, Barr proposed a new settlement offer on behalf of Mr. Chapilliquen. She withdrew the prior offer of spousal support but offered to deem the valuation of the

marital home to be the tax valuation of \$466,350. Barr's proposal was potentially advantageous to Ms. Chapilliquen because she wanted to keep the marital home, and the tax valuation was substantially lower than the expected appraised valuation. Respondent did not respond to the settlement offer. VSB Ex. 11, p. 4; VSB Ex. 24.

18. On May 17, 2019, the court granted Mr. Chapilliquen's motion to compel appraisal of the marital home, with the appraisal to take place on May 28, 2019. VSB Ex. 25.
19. On May 28, 2019, the parties' witness and exhibit lists were due. Respondent did not file witness or exhibit lists on behalf of Ms. Chapilliquen. VSB Ex. 11, p. 3.
20. On May 30, 2019 – more than two weeks after discovery closed -- Respondent purportedly issued a subpoena *duces tecum* to Mr. Chapilliquen. Respondent requested that Mr. Chapilliquen provide documents by June 14, 2019, which was three days after the equitable distribution trial was scheduled to begin. VSB Ex. 26. Barr testified that neither she nor her client received a copy of the subpoena.
21. On May 31, 2019, Respondent filed a motion to continue the equitable distribution trial. Respondent argued that his client had been unable to participate in discovery because she was not emotionally ready to do so, and that a continuance was needed to complete discovery. VSB Ex. 27.
22. On June 7, 2019, a week before trial, Respondent tried to schedule a hearing for a continuance. The parties addressed the matter at calendar control, where Respondent's request for a continuance was denied. VSB Ex. 11, p. 4.
23. Neither Respondent nor Ms. Chapilliquen showed up on time for the equitable distribution trial on June 11, 2019. Barr told the court that Respondent had stopped in briefly to say that he had "a mess" in another courtroom. The court discovered that Respondent had set two multi-day equitable distribution trials before two separate judges at the same date and time. VSB Ex. 11, pp. 4-5.
24. The court waited approximately one hour for the other matter to conclude. The Chapilliquen hearing then commenced without Respondent; Respondent arrived shortly after it started. VSB Ex. 28.
25. When Respondent arrived, he again asked for a continuance because he was unprepared to proceed. It was denied. Barr moved for an order limiting the testimony and evidence that Respondent could present on behalf of Ms. Chapilliquen because she had not participated in discovery or filed witness or exhibit lists. VSB Ex. 11, p. 5.
26. Ms. Chapilliquen was more comfortable testifying in Spanish than English. Barr had hired a Spanish-language interpreter and Respondent had not. Respondent asked to use Mr. Chapilliquen's interpreter, but the interpreter had another matter and Respondent would

not commit to paying her, and therefore the interpreter was not available for Ms. Chapilliquen's presentation of her case. VSB Ex. 11, p. 6; VSB Ex. 28, p. 56.

27. During the trial, Respondent asked the court to continue the hearing to the following day so that he could confirm whether his client had complied with discovery. The court said it would grant such a continuance if Respondent would affirm that he had answered discovery as required. The court added that if Respondent made this representation and it was not true, then Respondent would be in contempt. Respondent withdrew his request at that point, and the trial proceeded. VSB Ex. 11, pp. 6-7.
28. At the conclusion of the trial, the court asked both parties to submit a proposed final divorce decree. The court stated that Respondent's proposed final divorce decree demonstrated "an utter lack of knowledge of what language must be contained in a final decree." VSB Ex. 11, p. 7.
29. The court determined that Respondent, and not his client, was to blame for the problems with the case, and accordingly sanctioned Respondent \$11,000 for "a combination of attorney's fees for discovery violations and a monetary sanction for Respondent's untruthfulness to the Court." The court issued a July 30, 2019 memorandum opinion stating its ruling. VSB Ex. 11, p. 19.
30. The VSB opened a complaint based on the court's July 30, 2019 order. On August 6, 2019, the VSB sent a letter enclosing the court's memorandum opinion to Respondent at his address of record with the VSB. The letter advised Respondent that the VSB had opened a complaint and referred it to the Fifth District, Section II Committee for further investigation. The letter demanded that Respondent provide a written answer to the complaint within 21 days. VSB Ex. 4.
31. On August 8, 2019, Judge David Bernhard submitted a bar complaint regarding the conduct that was the subject of the existing complaint against Respondent. On August 14, 2019, the VSB sent a letter to Respondent enclosing the second complaint and advising Respondent that the second complaint had been combined with the original complaint. The letter again demanded that Respondent submit a written answer to the complaint within 21 days. VSB Ex. 4.
32. Respondent did not submit a written answer to either complaint. VSB Ex. 4.
33. On September 12, 2019, bar counsel, on behalf of the Fifth District, Section II Committee of the VSB issued a subpoena *duces tecum* to Respondent. The subpoena demanded that Respondent provide his records regarding his representation of Ms. Chapilliquen on or before October 3, 2019. The subpoena was served at Respondent's last address of record with the VSB in accordance with Paragraph 13-12.C. VSB Ex. 33.
34. The certified mail receipt reflected that the subpoena was signed for on September 16, 2019. VSB Ex. 34.

35. As of the October 3, 2019 deadline, Respondent had neither responded to the subpoena nor provided written objections to doing so. VSB Ex. 4.
36. On October 8, 2019, the VSB wrote a letter to Respondent, which was sent by mail and email. The letter advised that the VSB had not received a written response to its subpoena, and that if it did not receive a response by October 16, 2019, it would file a notice of noncompliance with the VSB Disciplinary Board. VSB Ex. 35.
37. On October 16, 2019, Respondent asserted that “communications between attorneys and client be privileged [sic].” He wrote that records of the case are public record, although he did not explain why he did not provide them. He also claimed that “[d]ocuments collected as part of Discovery process are not mine to give.” VSB Ex. 36. Respondent did not produce any documents in response to the subpoena. VSB Exs. 4-5.
38. On November 6, 2019, the Disciplinary Board entered an order suspending Respondent’s license until he complied with the September 12, 2019 subpoena. VSB Ex. 5. Respondent admitted he had not complied with the subpoena as of August 9, 2021.
39. On November 18, 2019, Respondent filed a Petition to Set Aside Judgment in the Chapilliquen matter. Respondent listed himself as the petitioner and Mr. Chapilliquen and his lawyers as the respondents. Respondent asked that the court’s opinion letter be set aside and “declared void . . . void ab initio, a legal fiat; a figment of Judge Bernhard imagination . . . void as result of the Trial Court’s misadministration of justice . . .” VSB Ex. 37.

Based on the foregoing facts, the Court determined that the VSB had proven, by clear and convincing evidence, that Respondent violated Virginia Rules of Professional Conduct 1.1, 1.3(a), and 8.1(c).

#### RULE 1.1 Competence

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

#### RULE 1.3 Diligence

(a) A lawyer shall act with reasonable diligence and promptness in representing a client.

\* \* \*

**RULE 8.1 Bar Admission And Disciplinary Matters**

An applicant for admission to the bar, or a lawyer already admitted to the bar, in connection with a bar admission application, any certification required to be filed as a condition of maintaining or renewing a license to practice law, or in connection with a disciplinary matter, shall not:

\* \* \*

(c) fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6[.]

The Court determined that a violation of Virginia Rule of Professional Conduct 8.1(d) was subsumed within Rule 8.1(c) and therefore not proven separately by clear and convincing evidence. Rule 8.1(d) states:

An applicant for admission to the bar, or a lawyer already admitted to the bar, in connection with a bar admission application, any certification required to be filed as a condition of maintaining or renewing a license to practice law, or in connection with a disciplinary matter, shall not:

\* \* \*

(d) obstruct a lawful investigation by an admissions or disciplinary authority.



Combined Matters of VSB Docket Nos. 20-052-117438, 20-052-17991, 20-052-117965, 20-052-117557

Both parties made opening statements.

During the VSB's case, the Court received the testimony of Randall Sousa and former VSB Investigator James Haughton regarding VSB Docket Nos. 20-052-117438, 20-052-17991, 20-052-117965, and 20-052-117557. The Court received the testimony of Tommy Luu and Sarah Piper regarding VSB Docket No. 20-052-117991. The Court received the testimony of Eber Gomez Gonzales, Roberto Bacalski, and Lisa Helene Bacalski regarding VSB Docket No. 20-052-117557. Then the VSB rested.

During Respondent's case, the Court received the testimony of George Garcia regarding VSB Docket Nos. 20-052-117438, 20-052-17991, 20-052-117965, and 20-052-117557.

Respondent moved to strike the VSB's evidence in Virginia Docket Nos. 20-052-117438 and 20-052-117965. After considering the argument of the parties, the Court denied the motion.

Both parties made closing arguments.

Virginia Docket No. 20-052-117438

Upon due deliberation and consideration of the exhibits, witness testimony, and argument of the parties, the Court determined that the bar had proven by clear and convincing evidence the following facts in VSB Docket No. 20-052-117438:

1. Respondent was admitted to the Virginia State Bar in January 2017. On November 6, 2019, his license was suspended for failing to respond to a subpoena *duces tecum* in VSB Docket No. 20-052-116377. VSB Ex. 2. Respondent admitted that his license to practice law in Virginia remained suspended for noncompliance with the subpoena as of the date of the hearing in the above-captioned disciplinary matters.
2. Visitacion Echeverria and his wife, Melissa B. Chicas Pineda, hired Respondent to represent them in a civil case pending in the Fairfax County General District Court.
3. On July 15, 2019, Echeverria and Pineda signed a retainer agreement with Respondent. Echeverria and Pineda agreed to pay Respondent a \$2,000 advanced fee, against which Respondent would bill at \$400/hour. VSB Ex. 47.

4. On July 15, 2019, Echeverria paid Respondent \$1,000. VSB Ex. 48.
5. On July 25, 2019, Respondent appeared in court for a return date and filed a notice of appearance for Echeverria and Pineda. VSB Ex. 49. The court required the plaintiffs to file a bill of particulars by August 23, 2019 and Respondent's clients to file a grounds of defense by September 23, 2019. The trial was set for November 26, 2019. VSB Ex. 52.
6. The plaintiffs timely filed their bill of particulars, but Respondent did not file a grounds of defense as required by the court. VSB Exs. 50, 52.
7. On October 31, 2019, Echeverria paid Respondent an additional \$500.
8. On November 10, 2019, Echeverria and Pineda hired new counsel, who informed them that the grounds of defense had not been filed. VSB Ex. 52.
9. After hiring new counsel, Echeverria requested a refund.
10. Respondent said that he would not refund any of Echeverria's money because he had earned the fee. However, Respondent did not provide Echeverria or the VSB with itemized invoices reflecting how he had earned the fee.
11. VSB Investigator Haughton asked Respondent to provide records reflecting his handling of the advanced legal fee he was paid in this matter. Respondent initially agreed to produce the records. However, when Investigator Haughton followed up, Respondent failed to produce the records. VSB Exs. 6, 7.

Based on the foregoing facts, the Court determined that the VSB had proven, by clear and convincing evidence, that Respondent violated Virginia Rules of Professional Conduct 1.3(a), 1.15(b)(3), and 8.1(c).

**RULE 1.3 Diligence**

(a) A lawyer shall act with reasonable diligence and promptness in representing a client.

**RULE 1.15 Safekeeping Property**

(b) Specific Duties. A lawyer shall:

\* \* \*

(3) maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and render appropriate accountings to the client regarding them[.]

\* \* \*

#### RULE 8.1 Bar Admission And Disciplinary Matters

An applicant for admission to the bar, or a lawyer already admitted to the bar, in connection with a bar admission application, any certification required to be filed as a condition of maintaining or renewing a license to practice law, or in connection with a disciplinary matter, shall not:

\* \* \*

(c) fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6[.]

#### VSB Docket No. 20-052-117991

Upon due deliberation and consideration of the exhibits, witness testimony, and argument of the parties, the Court determined that the bar had proven by clear and convincing evidence the following facts in VSB Docket No. 20-052-117991.

1. Respondent was admitted to the Virginia State Bar in January 2017. On November 6, 2019, his license was suspended for failing to respond to a subpoena *duces tecum* in VSB Docket No. 20-052-116377. VSB Ex. 2. Respondent admitted that his license to practice law in Virginia remained suspended for noncompliance with the subpoena as of the date of the hearing in the above-captioned disciplinary matters.

2. Complainant Tommy Luu's ex-wife filed a motion to modify visitation with their 13-year-old daughter in the Fairfax County Circuit Court. VSB Ex. 60.
3. On October 1, 2019, Luu met with Respondent for about 15 minutes. Luu signed a retainer agreement and paid Respondent \$2,120 by credit card. VSB Exs. 62, 63.
4. On October 16, 2019, Respondent appeared at calendar control in Luu's case. The judge identified January 22, 2020 as an available date and both parties agreed. Opposing counsel Sarah Piper testified that during the calendar control appearance, Respondent told her that he thought the parties could settle the matter before the hearing.
5. Respondent's license to practice law was suspended on November 6, 2019. VSB Ex. 5.
6. On December 21, 2019, Piper emailed Respondent to set up a time they could talk about Luu's emails and to try to resolve the case. Respondent did not respond. VSB Ex. 66.
7. On December 30, 2019, Piper sent a letter with a discovery request and attempted to initiate discussion to resolve the case. Respondent did not respond to the discovery or the effort to resolve the matter. VSB Ex. 67.
8. On Sunday, January 12, 2020, Luu met Respondent at his office. Luu testified that Respondent said he would reach out to the opposition and negotiate a settlement, and that Luu did not need to appear in court. However, Respondent never contacted Piper to attempt to negotiate a settlement.
9. On January 15, 2020, the court emailed the parties to ask for a status update on the case. Piper forwarded the email to Respondent and asked if he anticipated responding to her proposed agreement. Respondent did not respond to this email, either. VSB Ex. 68.
10. Piper testified that prior to the hearing, her client's settlement offer sought adjustment of visitation only and did not ask Luu to pay any attorney's fees.
11. On January 22, 2020, Piper and her client went to court. Neither Respondent nor Luu was present. That morning, Piper learned that Respondent's license to practice law had been suspended. In Luu's absence, Piper's client was awarded the requested change in visitation plus attorney's fees of more than \$13,000. VSB Ex. 70.
12. Luu testified that on the evening of January 22, 2020, Luu received the court order altering his visitation with his daughter and requiring him to pay \$13,250 in attorney's fees. After receiving the modified visitation order, Luu learned that Respondent's license to practice law had been suspended.
13. On or about January 24, 2020, Luu went to Respondent's office. Luu testified that Respondent's legal assistant George Garcia said that they would appeal the case and had Luu sign a notice of appeal. A notice of appeal with Luu's signature was filed on January 28, 2020. VSB Ex. 71.

14. Luu testified that Respondent did not refund any of the money Luu paid him. Respondent admitted that he did not provide Luu with any record of the time he had spent on Luu's case.
15. Luu retained a new attorney, who filed a motion for reconsideration. The judge vacated the January 22, 2020 order, giving Luu a chance to respond to discovery and present his case. The basis for vacating the order was that Respondent had misinformed him that the matter would be settled. VSB Ex. 72.
16. Piper testified that in August 2020, Luu was ordered to pay approximately \$12,000 in attorney's fees for his ex-wife's legal fees.
17. While investigating this matter, VSB Investigator James Haughton asked Respondent to provide documentation regarding his representation of Luu. In particular, Investigator Haughton asked Respondent to produce trust accounting ledgers, journals, timeslips, billing statements, and communications to support his account of events. Respondent initially agreed to produce this information. VSB Exs. 6, 7.
40. Investigator Haughton testified that on May 18, 2020, Respondent left a voicemail for Investigator Haughton stating that he had closed his office and did not have access to the information that Investigator Haughton had requested.
41. However, on October 27, 2020, Respondent emailed bar counsel, stating that he had a copy of records he had stored in the program MyCase, which he "d[id] not intend to share with you absent a court order." VSB Ex. 8.

Based on the foregoing facts, the Court determined that the VSB had proven, by clear and convincing evidence, that Respondent violated Virginia Rules of Professional Conduct 1.16(a)(1) and 8.1(c) and (d).

#### RULE 1.16 Declining Or Terminating Representation

(a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:

- (1) the representation will result in violation of the Rules of Professional Conduct or other law[.]

\* \* \*

**RULE 8.1 Bar Admission And Disciplinary Matters**

An applicant for admission to the bar, or a lawyer already admitted to the bar, in connection with a bar admission application, any certification required to be filed as a condition of maintaining or renewing a license to practice law, or in connection with a disciplinary matter, shall not:

\* \* \*

(c) fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6; or

(d) obstruct a lawful investigation by an admissions or disciplinary authority.

VSB Docket No. 20-052-117965

Upon due deliberation and consideration of the exhibits, witness testimony, and argument of the parties, the Court determined that the bar had proven by clear and convincing evidence the following facts in VSB Docket No. 20-052-117965:

1. Respondent was admitted to the Virginia State Bar in January 2017. On November 6, 2019, his license was suspended for failing to respond to a subpoena *duces tecum* in VSB Docket No. 20-052-116377. VSB Ex. 2. Respondent's license to practice law in Virginia remained suspended for noncompliance with the subpoena as of the date of the hearing in the above-captioned disciplinary matters.
2. Complainant Natalio Constanza Lopez alleged that his wife, Maritza Ludvia Martinez Recinos, hired Respondent on December 3, 2018 to represent Lopez in a criminal matter. VSB Ex. 76.
3. Respondent testified that he received \$2,000 in cash from Maritza Ludvia Martinez Recinos.

4. The representation was terminated, and Respondent refunded \$500 of the \$2,000 that he was paid. Respondent asserted that when he gave the refund, he would have provided an invoice. Garcia testified that he prepared an invoice and put it in the client file.
5. While investigating this matter, VSB Investigator James Haughton asked Respondent to provide documentation regarding his handling of this matter. In particular, Investigator Haughton asked Respondent to produce trust accounting ledgers, journals, timeslips, billing statements, and communications to support his account of events. Respondent initially agreed to produce this information. VSB Exs. 6, 7.
6. Investigator Haughton testified that on May 18, 2020, Respondent left Investigator Haughton a voicemail in which he said that most of his office services were disconnected and he did not have access to the information requested.
7. The VSB issued a subpoena duces tecum to MyCase, the legal services software Respondent had indicated he used. The response reflected that as of October 2020, Respondent's account remained active and was up to date on payments, which meant that Respondent had access to the records. VSB Exs. 79, 80. MyCase records also reflected that Respondent's assistant had logged into the software as recently as October 2020. VSB Ex. 80.
8. After the VSB issued the subpoena to MyCase, Respondent acknowledged that he possessed the records but "[d[id] not intend to share with you absent a court order." VSB Ex. 8.
9. Without this documentation, which Respondent acknowledged that he possessed, the VSB was unable to investigate the propriety of Respondent's actions regarding this representation.

Based on the foregoing facts, the Court determined that the VSB had proven, by clear and convincing evidence, that Respondent violated Virginia Rules of Professional Conduct 8.1(c) and (d).

\* \* \*

#### RULE 8.1 Bar Admission And Disciplinary Matters

An applicant for admission to the bar, or a lawyer already admitted to the bar, in connection with a bar admission application, any certification required to be filed as a condition

of maintaining or renewing a license to practice law, or in connection with a disciplinary matter, shall not:

\* \* \*

(c) fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6; or

(d) obstruct a lawful investigation by an admissions or disciplinary authority.

VSB Docket No. 20-052-117557

Upon due deliberation and consideration of the exhibits, witness testimony, and argument of the parties, the Court determined that the bar had proven by clear and convincing evidence the following facts in VSB Docket No. 20-052-117557:

1. On May 16, 2019, complainants Lisa and Roberto Bacalski hired Respondent to represent Eber Gonzales, the boyfriend of the Bacalskis' foster daughter, on one felony and one misdemeanor charge. VSB Ex. 88. The Bacalskis paid Respondent a \$4,000 advanced legal fee. VSB Ex. 89. A trial date was set for December 5, 2019.
2. As his hearing date approached, Gonzales became concerned regarding the status of his case. Gonzales made several attempts to contact Respondent but did not receive a response. VSB Ex. 83, p. 5.
3. On November 6, 2019, Respondent's license to practice law in Virginia was suspended as a result of his failure to respond to a subpoena *duces tecum* in VSB Docket No. 20-052-116377. VSB Ex. 5.
4. Mr. Bacalski testified that on the evening of December 3, 2019, Mr. Bacalski spoke to Respondent. Respondent said that the bar had suspended his license, but that he would still go to court for Gonzales.
5. On December 4, 2019, Mrs. Bacalski sent Respondent a fax notifying him that he was fired, and also taped a copy of the fax to the front door of his office. VSB Ex. 90.
6. Thereafter, the Bacalskis hired replacement counsel.



7. On December 30, 2019, Gonzales wrote to Respondent to request a refund. Gonzales both mailed his letter to Respondent's office and taped a copy to Respondent's office door. VSB Ex. 91.
8. Respondent admitted that he did not refund any of the advanced legal fee paid on Gonzales's behalf. Respondent asserted that he had earned the fee but did not provide Gonzales or the Bacalskis with any invoices reflecting the work he had performed on Gonzales's behalf.
9. As part of the bar's investigation of this matter, VSB Investigator James Haughton asked Respondent to provide billing records regarding this matter. Respondent did not produce any billing records to Investigator Haughton. Respondent later indicated that he had a copy of these records but would not produce them to the bar. VSB Exs. 6-8.

Based on the foregoing facts, the Court determined that the VSB had proven, by clear and convincing evidence, that Respondent violated Virginia Rules of Professional Conduct 1.15(b)(3) and (4) and 8.1 (c) and (d).

**RULE 1.15 Safekeeping Property**

(b) Specific Duties. A lawyer shall:

\* \* \*

(3) maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and render appropriate accountings to the client regarding them; [and]

(4) promptly pay or deliver to the client or another as requested by such person the funds, securities, or other properties in the possession of the lawyer that such person is entitled to receive[.]

\* \* \*

**RULE 8.1 Bar Admission And Disciplinary Matters**

An applicant for admission to the bar, or a lawyer already admitted to the bar, in connection with a bar admission application, any certification required to be filed as a condition of maintaining or renewing a license to practice law, or in connection with a disciplinary matter, shall not:

\* \* \*

(c) fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6; or

(d) obstruct a lawful investigation by an admissions or disciplinary authority.

#### Sanctions Phase

The Court then proceeded to the sanctions phase of the proceeding.

The Court received the testimony of Randall Sousa for the VSB. The Court also admitted without objection VSB Exhibit 92, which was Respondent's certified disciplinary record. The Court admitted VSB Exhibits 93 and 94 over Respondent's objection. The VSB rested after the presentation of its evidence.

The Court received Respondent's own testimony for Respondent. Respondent did not introduce any exhibits during the sanctions phase of the proceeding.

The VSB and Respondent then presented argument regarding the sanction to be imposed on Respondent for the misconduct found, and the Court recessed to deliberate.

#### Determination

After due consideration of the evidence as to mitigation and aggravation and argument of counsel, the Court reconvened to announce its sanction of Revocation of Respondent's license to practice law in the Commonwealth of Virginia, effective on August 10, 2021.

Accordingly, it is hereby ORDERED that Respondent's license to practice law in the Commonwealth of Virginia is REVOKED, effective on August 10, 2021.

It is further ORDERED that Respondent must comply with the requirements of Part Six, Section IV, Paragraph 13-29 of the Rules of the Supreme Court of Virginia. Respondent shall forthwith give notice by certified mail, return receipt requested, of the revocation of his license to practice law in the Commonwealth of Virginia, to any clients for whom he is currently handling matters and to all opposing attorneys and presiding judges in pending litigation. Respondent shall also make appropriate arrangements for the disposition of matters then in his care in conformity with the wishes of his clients. Respondent shall give such notice immediately and in no event later than 14 days after the effective date of the Revocation, and make such arrangements as are required herein as soon as is practicable and in no event later than 45 days after the effective date of the Revocation. Respondent shall also furnish proof to the VSB within 60 days of the effective date of the revocation that such notices have been timely given and such arrangements made for the disposition of matters.

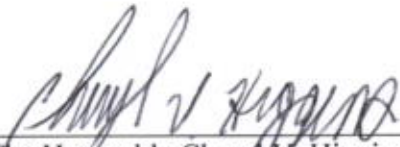
It is further ORDERED that if Respondent is not handling any client matters on the effective date of the revocation, he shall submit an affidavit to that effect to the Clerk of the Disciplinary System at the VSB. All issues concerning the adequacy of the notice and arrangements required by Paragraph 13-29 shall be determined by the VSB Disciplinary Board.

It is further ORDERED that the Clerk shall send a copy teste of this Memorandum Order to Respondent, Randall Sousa by certified mail, return receipt requested, at 101 North Fifth

Street, #1608, Richmond, Virginia 23219, his address of record with the VSB; to the Honorable DaVida M. Davis, Clerk of the Disciplinary System, Virginia State Bar, 1111 East Main Street, Suite 700, Richmond, Virginia 23219; and to Elizabeth Shoenfeld, 1111 E. Main Street, Suite 700, Richmond, Virginia 23219.

The hearing was recorded by Beverly S. Horne, Chandler & Halasz Stenographic Court Reporters, P.O. Box 9349, Richmond, VA 23227, (804) 730-1222.

ENTER: 9, 12, 2021

  
The Honorable Cheryl W. Higgins  
Chief Judge Designate

Virginia State Bar:



Elizabeth K. Shoenfeld (VSB 65635)  
Senior Assistant Bar Counsel  
Virginia State Bar  
1111 East Main Street, Suite 700  
Richmond, Virginia 23219  
Telephone: 804-775-9410  
shoenfeld@vsb.org

Seen and \_\_\_\_\_:

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Randall Sousa  
101 North Fifth Street, #1608  
Richmond, Virginia 23219

**IN VIRGINIA:**

**BEFORE THE CIRCUIT COURT OF THE CITY OF RICHMOND**

**VIRGINIA STATE BAR, et. al.**  
**COMPLAINANT(s),**

**RANDALL SOUSA**  
**RESPONDENT.**

**CASE NO. 21-1795**

**RESPONDENT OBJECTION TO THE  
PROPOSED FINAL ORDER**

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**RESPONDENT OBJECTION TO THE VIRGINIA STATE BAR'S  
PROPOSED FINAL ORDER**

Comes now, Randall Sousa, the Respondent in the above-captioned matter, with objection to the Virginia State Bar's proposed final order. In support of his objection, the Respondent states as follows.

The only things clear and convincing from these proceedings are: that Erin Barr lied to the court on June 11, 2019; that the Nineteenth Judicial Circuit of the County of Fairfax has little or no regard for the families they serve, as evidenced by having nine judges preside over the Chapilliquen matter in less than 10 months, and further by the manner of abuse of discretion on the part of the district court judge's award of legal fees in excess of Fourteen Thousand Dollars in Mr. Luu's matter, all while having full knowledge of the circumstances and controversy fabricated by its fellow jurist and with notice of the Respondent's suspension;

that the attorneys in Mr. Luu's matter grossly charged their client's more than thirty-thousand dollars for a four-hour custody modification matter involving a 14 year old girl [repugnant, foul and abusive, absent all regards for the health and wellbeing of the good families of Virginia, especially, while in their most difficult and vulnerable moments]; that the Virginia State Bar conducted an unlawful investigation by anonymous means to obstruct Justice in an attempt to deny the Respondent his right to a fair trial; that the Virginia State Bar, talks the talk, but does not walk the walk, that is to say, the Virginia State Bar lacks integrity in their process; that the Respondent's license was suspended absent any reasonable inquiry, genuine basis in fact or valid process of law; that our functions of government are under attack i.e. VSB is a political construct employed to suppress the truth in certain cases in the service of its masters; that the harm alleged in these cases are the direct and intended result of the Virginia State Bar's obnoxious, destructive, and unlawful investigation.

Mind you, "our system of justice does not permit agencies to act unlawfully even in pursuit of desirable ends." (*Alabama Association of Realtors, Et al. v. Department of Health and Human Services, et. al.*, U.S. Sup. Ct., August 26, 2021)

Moreover, by clear and convincing evidence, we learned that Judge Bernhard is a miscreant who operates outside the law and therefore must be removed from

his public office as a result of his persistent conduct prejudicial to the administration of Justice in Virginia.

Beyond that and generally speaking, our elected leaders are at war with the truth, to the detriment of the public they serve.

— May God have mercy on the poor souls who wish to do us harm for I will not. And, may God continue to bless and protect the great Commonwealth of Virginia.

Dated: August 30, 2021

Submitted by:

*Randall Sousa*

Randall Sousa  
101 North Fifth Street, No. 1608  
Richmond Virginia, 23219  
Telephone (804)372-7092